REMARKS

I.   STATUS OF THE CLAIMS

Claims 1, 15 and 30 have been amended. Proper support for the amendment to claims 1, 15 and 30 can be found in the specification at least at page 24, lines 3-13, 21-29 and page 26, lines 15-21. Accordingly claims 1-58 are pending and under consideration.

II.   THE REJECTION OF CLAIMS 1-8 and 10-24 UNDER 35 U.S.C. 102(E) AS BEING ANTICIPATED BY BALLANTINE

Applicants respectfully traverse this rejection for at least the following reason. Claim 1, as amended, recites a method of managing a network comprising amongst other novel aspects, "polling resources of the network to gather real-time status information about the network."

Ballantine discloses a software tool for proactively monitoring network health, anticipating unacceptable network performance, alerting a network operator of unacceptable network performance, and automatically scheduling network maintenance based on anticipated unacceptable network performance (column 1, lines 6-13). To perform the foregoing operation, the software tool takes account of prior information (e.g., company repair and replacement policy, knowledge of system load under different conditions, knowledge of the effect of changing the network in specific ways), system performance data gathered from network components, and information from network planning tools and maintenance scheduling tools to optimize preventive network maintenance (column 2, lines 57-64). For example, Ballantine teaches storing data disclosing that Mother's Day is the busiest day of the year with regard to subscriber use or wireless and wire line devices. Based on this information, health manager software tool 168 anticipates an increase in network load on Mother's Day and proposes solutions to a network operator for handling the potential load increase (column 5, lines 15-23).

Accordingly, Ballantine requires information or parameters about a possible or future problem to be input to the health manager software tool in advance and based on the input information predicting a future problem within the network.

The present invention polls resources of the network to gather real-time status information about the network, evaluates the gathered real-time status information, and based on the gathered real-time status information, predicts whether a future performance problem is to be encountered within the network. Accordingly the present invention uses real-time status

information to predict a future problem.

Accordingly, Applicants respectfully assert that the rejection of claim 1 should be withdrawn because Ballantine does not teach or suggest each feature of independent claim 1, as amended.

Furthermore, Applicants respectfully assert that dependent claims 2-8 and 10-14 are allowable at least because of their dependence from claim 1, as amended, and for the reasons set forth above.

III. THE REJECTION OF CLAIM 9 UNDER 35 U.S.C. 103(A) AS BEING UNPATENTABLE OVER BALLANTINE AS APPLIED TO CLAIM 1 ABOVE, IN VIEW OF SIME.

Claim 9 depends upon claim 1, and as noted above, Ballantine fails to teach or suggest the novel features recited in newly amended independent claim 1.

Sime teaches a system that allows an organization to monitor and chart Internet gateway user activity and resource usage to allow proactive planning for expansion and reassignment before facilities become congested and users are adversely impacted (column 1, lines 66-67 and column 2, lines 1-4). Accordingly, Sime teaches a system for charting Internet gateway performance by gathering statistical information of the network.

However, Sime fails to teach or suggest the features recited in newly amended independent claim 1.

Accordingly, Applicants respectfully assert that the rejection of claim 9 should be withdrawn because neither Ballantine nor Sime, whether taken alone or in combination teach or suggest each feature of independent claim 1, as amended, upon which claim 9 depends from.

IV. THE REJECTION OF CLAIMS 15-19, 22-40 and 42-44 UNDER 35 U.S.C. 103(A) AS BEING UNPATENTABLE OVER BALLANTINE IN VIEW OF SIME.

Applicants respectfully traverse this rejection for at least the following reasons.

Claim 15, as amended, recites a system for managing a network comprising amongst other novel aspects, "at least one polling gateway that is operable to gather real-time status information for one or more network elements."

Claim 30, as amended, recites a management system, comprising amongst other novel

aspects, "at least one processor-based management server communicatively coupled to at least one polling gateway that is operable to poll at least one network element to gather real-time status information for said at least one network element."

As noted above, Ballantine teaches a tool for monitoring the health of a network that requires information about a possible or future problem to be input to the health manager software tool **in advance** and based on the input information, predicting a future problem within the network.

Accordingly, Ballantine does not teach or suggest each feature of independent claim 15, as amended, such as for example, "at least one polling gateway that is operable to gather real-time status information for one or more network elements."

Ballantine also fails to teach or suggest each feature of independent claim 30, as amended, such as for example, "at least one processor-based management server communicatively coupled to at least one polling gateway that is operable to poll at least one network element to gather real-time status information for said at least one network element."

As noted above, Sime teaches a system for charting Internet gateway performance by gathering statistical information of the network. Therefore, Sime also fails to teach or suggest the features recited in newly amended independent claims 15 and 30.

Accordingly, Applicants respectfully assert that the rejection of claims 15 and 30 should be withdrawn because neither Ballantine nor Sime, whether taken alone or in combination teach or suggest each feature of independent claims 15 and 30, as amended.

Claims 16-19 and 22-29 depend upon independent claim 15. As noted above, neither Ballantine nor Sime, whether taken singly or combined teach or suggest the features recited in amended independent claim 15.

Accordingly, Applicants respectfully assert that dependent claims 16-19 and 22-29 are allowable at least because of their dependence from independent claim 15, and the reasons set forth above.

Claims 31-40 and 42-44 depend upon independent claim 30. As noted above, neither Ballantine nor Sime, whether taken singly or combined teach or suggest the features recited in amended independent claim 30.

Accordingly, Applicants respectfully assert that dependent claims 31-40 and 42-44 are allowable at least because of their dependence from independent claim 30, and the reasons set

forth above.

V.   THE REJECTION OF CLAIMS 20 and 21 UNDER 35 U.S.C. 103(A) AS BEING
        UNPATENTABLE OVER BALLANTINE IN VIEW OF SIME, AS APPLIED TO
        CLAIMS 19 AND 20 ABOVE RESPECTIVELY, IN VIEW OF CHIN

Claim 20 depends upon claim 15 and as noted above neither Ballantine nor Sime,
whether taken singly or combined teach or suggest the features recited in amended independent
claim 15.

Chin discloses a method and apparatus for displaying from a single window on a network
management station the health status of all network devices and objects of a computer network
(abstract).

Accordingly, Chin also fails to teach or suggest the features recited in newly amended
independent claim 15.

Accordingly, Applicants respectfully assert that the rejection of claim 20 under 35 U.S.C.
§103(a) should be withdrawn because neither Ballantine, Sime nor Chin, whether taken singly or
combined teach or suggest the features recited in independent claim 15 upon which claim 20
depends from.

Claim 21 depends upon claim 15 and as noted above neither Ballantine nor Sime nor
Chin, whether taken singly or combined teach or suggest the features recited in amended
independent claim 15.

Accordingly, Applicants respectfully assert that the rejection of claim 21 under 35 U.S.C.
§103(a) should be withdrawn because neither Ballantine, Sime nor Chin, whether taken singly or
combined teach or suggest the features recited in independent claim 15 upon which claim 20
depends from.

VI.   THE REJECTION OF CLAIM 41 UNDER 35 U.S.C. 103(A) AS BEING UNPATENTABLE
        OVER BALLANTINE AND SIME, AS APPLIED TO CLAIM 30 ABOVE, IN VIEW OF
        BATTAT

Claim 41 depends upon claim 30 and as noted above neither Ballantine nor Sime,
whether taken singly or combined teach or suggest the features recited in amended independent
claim 30.

Battat discloses a method for using neural agents to monitor network status and devices

and to predict future states of these devices (abstract).

Accordingly, <u>Battat</u> also fails to teach or suggest the features recited in newly amended independent claim 30.

Accordingly, Applicants respectfully assert that the rejection of claim 41 under 35 U.S.C. §103(a) should be withdrawn because neither <u>Ballantine</u>, <u>Sime</u> nor <u>Battat</u>, whether taken singly or combined teach or suggest the features recited in independent claim 30 upon which claim 41 depends from.

VII. THE REJECTION OF CLAIMS 45 and 46 UNDER 35 U.S.C. 103(A) AS BEING UNPATENTABLE OVER <u>BALLANTINE</u> AND <u>SIME</u>, AS APPLIED TO CLAIMS 30 AND 45 ABOVE RESPECTIVELY, IN VIEW OF <u>BARRACK</u>

Claims 45 and 46 depend upon independent claim 30.

As noted above, neither <u>Ballantine</u> nor <u>Sime</u>, whether taken singly or combined teach or suggest the features recited in amended independent claim 30.

<u>Barrack</u> discloses a system that automatically integrates new network elements. The system detects the connection of the new element with the system. The system identifies the new element, either directly or inferentially, by examining the protocol, the inputs, and the outputs of the new element, as compared with stored information (abstract).

Accordingly, <u>Barrack</u> also fails to teach or suggest "at least one processor-based management server communicatively coupled to at least one polling gateway that is operable to poll at least one network element to gather real-time status information for said at least one network element," as recited in newly amended independent claim 30.

Therefore, Applicants respectfully assert that dependent claims 45 and 46 are allowable at least because of their dependence from independent claim 30, and the reasons set forth above.

VIII THE REJECTION OF CLAIMS 47-48, 50-51, 52-54, 55-56 AND 57-58 UNDER 35 U.S.C. 103(A) AS BEING UNPATENTABLE OVER <u>BALLANTINE</u> AND <u>SIME</u>, AS APPLIED TO CLAIM 30 ABOVE, IN VIEW OF <u>KULATUNGE</u>

Claims 47-48 and 50-58 depend upon independent claim 30.

As noted above, neither <u>Ballantine</u> nor <u>Sime</u>, whether taken singly or combined teach or

suggest the features recited in amended independent claim 30.

Kulatunge discloses a system for proactive maintenance of a telecommunications network. A database is created containing characteristics of a plurality of valid logs. These valid logs represent alarms within a network which report status and abnormalities in the network and which have been specifically selected by a network domain expert or administrator from a larger group of logs. The characteristics correspond to a pattern of network fault parameters. The network is monitored for occurrences of a valid log (abstract).

Accordingly, Kulatunge also fails to teach or suggest "at least one processor-based management server communicatively coupled to at least one polling gateway that is operable to poll at least one network element to gather real-time status information for said at least one network element," as recited in newly amended independent claim 30.

Therefore, Applicants respectfully assert that dependent claims 47-48 and 50-58 are allowable at least because of their dependence from independent claim 30, and the reasons set forth above.

IX.   THE REJECTION OF CLAIM 49 UNDER 35 U.S.C. 103(A) AS BEING UNPATENTABLE OVER BALLANTINE AND SIME AND KULATUNGE, AS APPLIED TO CLAIM 48 ABOVE, IN VIEW OF QUELENE.

Claim 49 depends upon independent claim 30.

As noted above, neither Ballantine nor Sime nor Kulatunge, whether taken singly or combined teach or suggest the features recited in amended independent claim 30.

Quelene discloses a system that permits commercial transactions over a network of computers (abstract).

Accordingly, Quelene also fails to teach or suggest "at least one processor-based management server communicatively coupled to at least one polling gateway that is operable to poll at least one network element to gather real-time status information for said at least one network element," as recited in newly amended independent claim 30.

Therefore, Applicants respectfully assert that dependent claim 49 is allowable at least because of its dependence from independent claim 30, and the reasons set forth above.

X.   CONCLUSION

In view of the above, it is respectfully submitted that the application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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